



POLICE DEPARTMENT

November 10, 2011

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Jason Jeremiah
Tax Registry No. 936814
Police Service Area 1
Disciplinary Case No. 2010-2690

The above-named member of the Department appeared before the Court on August 22, 2011, charged with the following:

1. Said Police Officer Jason Jeremiah, assigned to PSA 1, on or about August 14, 2009 did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, when said Officer advised the Medical Division, Sick Desk that he could not report for duty because he was quarantined at the Maurice Bishop Airport, Granada, and not allowed to travel, knowing that this statement was not true.

P.G. 203-10, Page 1, Paragraph 5 REPORTING SICK FROM OUTSIDE CITY
PG 205-02, Page 1

2. Said Police Officer Jason Jeremiah, assigned to PSA 1, on or about August 14, 2009, did fail to report for his assigned tour of duty, scheduled to begin at 1500 hours, without permission or authority.

P.G. 205-18 ABSENT WITHOUT LEAVE

3. Said Police Officer Jason Jeremiah, assigned to PSA 1, on or about October 20, 2009, during an official Department Investigation, conducted pursuant to the provisions of Patrol Guide Section 206-13, did wrongfully make false and misleading statements, to wit: said Officer claimed that he could not report for duty because he was quarantined at the Maurice Bishop Airport, Granada, and not allowed to travel, knowing that this statement was not true.

P.G. 203-08, Page 1, Paragraph 1 MAKING FALSE STATEMENTS

The Department was represented by Hiram Lopez, Esq., Department Advocate's Office. Respondent was represented by Michael Martinez, Esq., Worth, Longworth & London LLP.

Respondent, through his counsel, pleaded Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent, having pleaded Guilty, is found Guilty.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent, a six-year member of the Department, was assigned to Police Service Area (PSA) 1. In August 2009, he took a vacation with his family to Grenada, where he was born. He was there for three weeks. He had put in individual vacation picks for 15 days. Respondent, however, wanted to spend a few extra days in Grenada in order to make the flight back less expensive. When he asked his supervisors whether he would be able to take off the additional days, Respondent was instructed to take a Commander's Day for good arrests that he had made in the previous months, and a vacation day for the additional day. Though these days off could not be confirmed until later on, his supervisors did not anticipate a problem, and instructed him to purchase a plane ticket. Respondent understood that there was a possibility that the request for additional days might be denied, but considered that possibility "[v]ery unlikely." He bought a plane ticket for the later date, and accepted that he might have to pay a fee to make his flight earlier should the days be denied.

Three or four days before he was scheduled to return to work, Respondent began to feel sick. Though he did not seek medical attention in Grenada, as it was “pretty much a third world country,” he planned to see his doctor when he returned to the United States. Respondent called his command the day that he was scheduled to return to work as per his individual picks. He spoke to Sergeant Andrew Owen that morning at about 0930 hours. Owen informed him that his request for additional days had been denied. Respondent tried to explain that he had spoken to a lieutenant, but Owen “pretty much said you are denied and kind of just blew me off.” Respondent later found out that his request was denied because a 90-year-old individual had been shot on a park bench, and all vacation day requests were being denied because of the staffing necessary to deal with that incident.

Respondent testified that according to the Patrol Guide, if an officer becomes sick while on vacation, the procedure is to contact the sick desk and follow the instructions of the sick desk supervisor. Rather than calling the sick desk from Grenada, however, Respondent went to the airport and planned to report to the sick desk once he returned to New York. On the morning that he was supposed to report to work after his vacation ended, Respondent arrived at the airport at 1000 hours for a four-hour flight back to New York. He was due at work at 1500 hours.

When he reached the airport, Respondent was made to go through a screening process. At this point, Respondent was visibly sick, and a woman at the airport made him fill out a form with all of his symptoms. She then referred Respondent to another man who gave him a list of doctors, and instructed that Respondent would have to see one of those doctors before getting on a flight. When Respondent went to the doctor, he was told he had “flu-like symptoms,” and that he would have to take an anti-viral medication to bring the fever down. After Respondent told

the doctor that he was a police officer in New York, the doctor said that if his fever went down, Respondent might be able to leave the following day.

Once he was turned away at the airport, Respondent called the sick desk. He spoke to Sergeant Derrick Avery about his situation, telling him that he was not able to fly. Respondent admitted that he “might have used the word quarantine” during this conversation. Respondent then admitted that, at some point, he told Avery that he had been quarantined. He admitted that technically he was never in custody or restricted by airport security. He was, however, told he would not be able to fly that day, after which he went to the doctor on his own, and returned to his room for the night.

The following day, August 15, 2009, Respondent returned to the airport. After taking the medication that his doctor prescribed, his fever went down and his tonsils became less swollen. That day, he was allowed to fly to New York. When he landed, Respondent called the sick desk supervisor, who told him to report to the sick desk. He did so, and was examined by the district surgeon. The surgeon also told Respondent that he had “flu-like symptoms,” and instructed him to see his personal doctor as soon as possible. He also placed Respondent on sick report for one week. When Respondent went to see his own doctor, he was treated for H1N1, or swine flu, and was prescribed Tamiflu. After that week, Respondent returned to see the district surgeon, who kept him out for another week. After that second week, he returned a third time to the district surgeon. The surgeon told him that his tonsils were still swollen, but that he was “getting a lot of calls about [Respondent]” and had to put him back on duty immediately.

In late October 2009, Respondent’s official Department interview was conducted (see Respondent’s Exhibit [RX] C). After the interview, he tried to consult the airport official and the doctor that he saw in Grenada, and requested a copy of the doctor’s office record of his visit.

The doctor, Michael A. Radix, sent a note confirming a visit and treatment on August 14, 2009 (see RX A).

During the official Department interview, Respondent was confronted with the allegation that there was no policy of quarantine or medical screening in Grenada during the relevant time period. In response to that, Respondent searched the Internet to see if he could find any evidence to the contrary. As a result of this search, he printed out several articles (see RX B). The articles were dated between April and July of 2009. The articles discussed Grenada's implementation of a policy restricting the travel of people exhibiting H1N1 symptoms. Specifically, Grenada had set up medical checkpoints at major points of entry, asking travelers to complete a health questionnaire and subjecting them to observation by a special medical team. They also detailed at least one instance where two men were quarantined for seven days upon entry into Grenada from Mexico because they had exhibited flu-like symptoms.

During cross-examination, Respondent confirmed that while waiting in line to see the ticket agent at the airport in Grenada, a female employee of the Ministry of Health noticed that he was sweating and asked him some questions. He never actually read her identification card, or saw the term "Ministry of Health" anywhere in the area to which he was brought. This woman, however, brought him to a medical screening area, where a man told him that he had a high fever and would not be allowed to fly. This man "alluded to the fact that this is a Ministry of Health procedure."

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Education, 34 N.Y.2d 222 (1974). Respondent was appointed to the Department on January 10, 2005. Information from his personnel file that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Respondent has pleaded Guilty to making "not true" statements regarding his status on August 14, 2009. At that time, Respondent was on vacation in Grenada for three weeks. For most of that period, Respondent submitted individual vacation picks. For August 14 and 15, 2009, however, Respondent had submitted '28's, but left for Grenada before he found out if they were approved, although he claimed at the hearing that one of his supervisors, a lieutenant, told him it would be okay. He was planning to fly back to New York on August 15, 2009.

Respondent testified that he began feeling ill toward the end of his Grenada trip, but did not seek medical attention there at first. He called his command on the morning of August 14, 2009, to see if his '28's had been approved. He was told by Sergeant Owen that they were not and that he was expected to report for duty that day at 1500 hours. Respondent later found out that there had been a shooting of a 90-year-old individual and that all requests for time off had been cancelled.

Respondent testified that he went to the airport to see if he could get on a flight on August 14, 2009. When he arrived, he found that health screening stations had been set up. He believed that these were being run or authorized by the Grenada Ministry of Health. It was stated at trial that during August 2009, there were grave concerns in Grenada specifically about H1N1, also known as swine flu (the particular strain of H1N1 was first detected in Mexico in the spring of 2009, and the World Health Organization declared a pandemic in June 2009).

Respondent was told that he could not board a flight that day and that he needed to see a Grenadian doctor. He went to see Dr. Michael A. Radix. Radix later sent a doctor's note to Respondent, stating that he saw Respondent in his office on August 14, 2009, and diagnosed him with "flu-like symptoms." Radix "advised" Respondent "not to travel with these symptoms as per the precautionary measures established by the Grenada Ministry of Health and Ministry of Tourism during this period due to the Swine Flu epidemic which was at its peak" (see RX A, doctor's note).

Nevertheless, Respondent testified, he was permitted to board a flight back to the New York area on August 15, 2009. He reported to the Medical Division, where he was examined and put on sick leave for one week. The next week, he was re-examined, and again put out for a week. The week after that, Respondent was examined once more. This time, he testified, the district surgeon told him that they were receiving inquiries about him and had to return him to full-duty status.

The Department's position was not, apparently, that Respondent was malingering or otherwise not genuinely sick. Rather, they argued that he falsely claimed he was "quarantined" and "not allowed to travel." The Department also averred that it had found that no Grenadian authorities had implemented the kind of screening procedures on August 14, 2009, that Respondent testified about. The Department stated that only travelers entering Grenada were being screened or quarantined, but proffered no concrete evidence that Respondent would not have been screened in any way when arriving at the airport.

Respondent admitted that he overstated the case when he first spoke to Department personnel. He was not "quarantined" or "not allowed to travel" in the sense of being kept in a

contained area. Rather, he was simply not allowed to board the aircraft he wanted to board that day.

The Court notes that airlines have general authority to keep passengers off a flight if it is believed they constitute a threat to safety. The Court does not find it inconceivable that staff, viewing an obviously ill potential passenger, would tell him that he could not board a flight. Whether Respondent was told this by airline or government officials is immaterial because he has admitted that he was never actually quarantined.

The Court finds no reason that Respondent would have been untruthful about not being allowed to board a flight on August 14, 2009. He was, in fact, sick on that date, and this is corroborated by the note from Radix and Respondent's subsequent placement by the district surgeon on two weeks of sick leave.

As to penalty, the Department recommended the forfeiture of 30 vacation days and placement on one year of dismissal probation. The facts in this matter do not warrant such a penalty. There was no evidence that Respondent engaged in the kind of "extensive ethical misconduct involving a scheme to deceive the Department and to prevent investigators from determining why" he could not report for duty. Cf. *Case Nos. 85591/09 et al.*, signed Aug. 9, 2010 (terminating member for, inter alia, seeking to have a friend impersonate a doctor's office employee when Absence Control called to ascertain member's whereabouts). Instead, Respondent was legitimately sick and unable to board a plane, but inaccurately stated that he was "quarantined" and "not allowed" to travel. Indeed, more serious false statement cases have resulted in lesser penalties. See, e.g., *Case No. 83627/08 et al.*, signed Jan. 12, 2010 (30 days where field team members wrongfully signed prostitution undercover's number to swear out

supporting disposition affidavit); *Case No. 84029/08*, signed Aug. 4, 2009 (same); *Case No. 84026/08*, signed Mar. 30, 2009 (same); *Case No. 84027/08*, signed Mar. 10, 2009 (same).

In the Department's view, this was a false statement case because Respondent lied about not being allowed to leave Grenada. In fact, the Advocate protested that Respondent had not taken responsibility for his actions because, while he pleaded Guilty, he still maintained that he was not allowed to board an aircraft. Respondent, however, is charged here only with making two "not true" statements, that he was "quarantined" and "not allowed to travel." He admitted that these statements were not true. While Respondent misused the term quarantine, however, this was not a "lie" in the sense of an intentional falsehood with deceptive purpose.

In one case involving a failure to report for duty, *Case No. 81783/06*, signed July 2, 2007, a member with no prior disciplinary record forfeited 10 vacation days for twice being absent from his residence. He called in sick to work after having attended a pre-tour paramedics class on two dates. When he returned home from the class, he arrived after his tour had started, thus ending up out of residence while sick.

Members of the Department are expected to adhere scrupulously to procedures for being absent from work and reporting sick. Respondent failed to meet this expectation. Taking into account his work record as well, see Conf. Mem., infra, the Court recommends that Respondent forfeit 10 vacation days as a penalty.

APPROVED
JAN 17 2012
Raymond W. Kelly
RAYMOND W. KELLY
POLICE COMMISSIONER

Respectfully submitted,

David S. Weisel
David S. Weisel
Assistant Deputy Commissioner Trials

POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER JASON JEREMIAH
TAX REGISTRY NO. 936814
DISCIPLINARY CASE NO. 2010-2690

Respondent has received an overall rating of 4.0 "Highly Competent" on his last three annual performance evaluations. He has been awarded seven medals for Excellent Police Duty and one for Meritorious Police Duty. [REDACTED]

[REDACTED] Based on his overall record, Respondent was placed on Level-II Discipline Monitoring in May 2010. He has no prior formal disciplinary record.

For your consideration.



David S. Weisel
Assistant Deputy Commissioner [REDACTED] Trials